

Notice of Allowability

Application No.

10/810,513

Examiner

Theresa Trieu

Applicant(s)

HEIZER, CHARLES K.

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on April 19, 2005.
2. ☒ The allowed claim(s) is/are 1-104.
3. ☒ The drawings filed on April 19, 2005 & March 27, 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 05/04/05.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


Theresa Trieu
Primary Examiner
Art Unit: 3748

EXAMINER'S AMENDMENT

This Office Action is responsive to the applicant's amendment filed on April 19, 2005.

Claims 1, 2, 4-10, 44, 61-63, 99 and 100 have been amended. Thus, claims 1-22, 24, 26-29, 31-47, 49-51, 53-70, 72, 87, 99 and 104 are pending in this application.

Applicant's cooperation in correcting the informalities in the drawings and specification are appreciated.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. However, the examiner has considered the two references Krigar (Publication Number DE 4121) and Krigar (Publication Number DE 7116) and the examiner has cited two references Krigar '121 and Krigar '116 on form PTO-892 to move this case forward.

Election/Restrictions

Authorization for this examiner's amendment was given in a telephone interview with Mr. Dennis J. M. Donahue III (Reg. No. 43,591) on May 3, 2005. During telephone conversation with Mr. Donahue III, an agreement was reached to cancel claims 105-110.

This application is in condition for allowance except for the presence of claims 105-110 drawn to a non-elected invention (see paper filed on October 27, 2004). Accordingly, claims 105-110 have been cancelled as per applicant's request.

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The election of the invention of Group II/Figs. 8A-8D, 9, 10A-10D and 11A-11H filed on October 27, 2004 is acknowledged; however, rendered moot in view of the allowance of a generic claim. In view of the allowance of the generic claims 11, 31, 61 and 99, non-elected claims 23, 25, 30, 48, 52, 71, 73-86, 88-98, 100-103 have been rejoined with their base claim. Claims 1-104 are allowed.

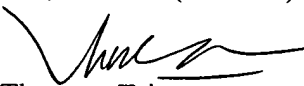
Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Theresa Trieu
Primary Examiner
Art Unit 3748